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MICRON TECHNOLOGY, INC.

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

INFINEON TECHNOLOGIES NORTH  
AMERICA CORPORATION,

Plaintiff,

v.

MOSAID TECHNOLOGIES  
INCORPORATED,

Defendant.

Case No. 5:02-cv-05772-JF (RS)

**PROPOSED INTERVENOR MICRON  
TECHNOLOGY'S SURREPLY IN  
OPPOSITION TO JOINT MOTION TO  
VACATE**

Proposed intervenor Micron Technology, Inc. ("Micron") respectfully submits the  
following brief response to MOSAID's Reply to Micron's Opposition to Joint Motion to Vacate

1 (“Reply”). Micron recognizes that the Court did not authorize the filing of an additional  
2 document. However, for the first time in its Reply papers, MOSAID offers a new argument to  
3 support its request to vacate the claim construction and non-infringement orders in this case,  
4 which is based on a mischaracterization of the very evidence MOSAID cites, and Micron feels  
5 compelled to point out this mischaracterization to the Court.

6 Specifically, MOSAID argues for the first time in its Reply that Judge Martini  
7 impermissibly based his claim construction ruling on the Federal Circuit’s decision in *Texas*  
8 *Digital Systems, Inc. v. Telegenix, Inc.*, 308 F.3d 1193 (Fed. Cir. 2002); that the approach to  
9 claim construction taken by the Federal Circuit in *Texas Digital* was later rejected in the Federal  
10 Circuit’s en banc decision in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005); and that the  
11 claim construction ruling and any subsequent rulings based on that construction should therefore  
12 be vacated as erroneous. While the Federal Circuit in *Phillips* unquestionably criticized the  
13 *Texas Digital* court’s excessive emphasis on dictionary definitions, it is readily apparent from the  
14 district court’s opinion in this case that it did not improperly place undue emphasis on dictionary  
15 definitions; rather, Judge Martini fully analyzed the disputed terms in the context of the  
16 specification as required under *Phillips*. Micron is confident that if the Court reviews the claim  
17 construction order and opinion with an eye to the *Phillips* claim construction principles, the  
18 Court will agree that the district court’s ruling is fully consistent with those principles.

19 Indeed, MOSAID cites only to a single instance in which it claims the district court  
20 erroneously applied the *Texas Digital* claim construction framework: its interpretation of the  
21 term “latching level shifter.” [Reply at 12]. MOSAID argues that the Court then improperly  
22 applied its allegedly erroneous construction of this term to find non-infringement. [Id.].  
23 However, as is evident from the claim construction order, while Judge Martini referred to a  
24 dictionary definition in his analysis, he did not rely on dictionary definitions to the exclusion of  
25 the specification; to the contrary, Judge Martini expressly analyzed the specification, and  
26 particularly Figure 1 of the patent (as well as the testimony of MOSAID’s own expert), in  
27 reaching its conclusion. [Birnschein Decl. Exh. 10 at pp. 43-45 (noting that it was adopting  
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In sum, MOSAID still has not articulated an equitable basis for vacating the judgment, claim construction order and/or summary judgment order in this case. Accordingly, this court should refuse to vacate these rulings, and permit Micron to argue their estoppel effect at a later time.

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